

**UNITED STATES COURT OF APPEALS**

**JUN 3 2002**

**TENTH CIRCUIT**

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**PATRICK FISHER**  
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUSTINO HERNANDEZ-  
DOMINGUEZ,

Defendant - Appellant.

No. 02-3008

(D.C. Nos. 01-CV-3252-RDR,  
98-CR-40116-02-RDR)

(D. Kansas)

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**ORDER AND JUDGMENT\***

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Before **KELLY, McKAY**, and **MURPHY**, Circuit Judges.

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After examining the briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This is a pro se § 2255 prisoner appeal. Mr. Hernandez-Dominguez was convicted of possession with intent to distribute and conspiracy with intent to

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

distribute methamphetamine. He was sentenced to two concurrent 188-month sentences. We affirmed his conviction on appeal in United States v. Hernandez-Dominguez, No. 99-3305, 2001 WL 13278 (10th Cir. Jan. 5, 2001). In this § 2255 motion, Mr. Hernandez-Dominguez seeks to vacate his sentence based on several claims of ineffective assistance of counsel. Finding no merit in any of Mr. Hernandez-Dominguez's arguments, the district court denied the § 2255 motion on the merits. The district court also declined to grant him a certificate of appealability. Appellant then applied to this court for a certificate of appealability.

In order for this court to grant a certificate of appealability, Appellant must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To do so, Appellant must demonstrate that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quotations omitted).

We have carefully reviewed Mr. Hernandez-Dominguez's brief, the district court's disposition, and the record on appeal. Nothing in the facts, the record on appeal, or Appellant's brief raises an issue which meets our standards for the grant of a certificate of appealability. For substantially the same reasons as set

forth by the district court in its Order of August 16, 2001, we cannot say that “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner.” Id. We **DENY** Appellant’s request for a certificate of appealability and **DISMISS** the appeal.

Entered for the Court

Monroe G. McKay  
Circuit Judge